

EXHIBIT D

AFFIDAVIT OF THOMAS M. CORSI

STATE OF MARYLAND)
COUNTY OF HOWARD)
)SS:

I, Thomas M. Corsi, being first duly sworn according to law, do hereby depose and state as follows:

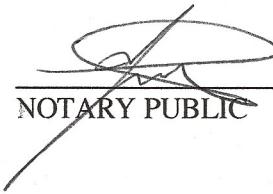
1. My name is Thomas M. Corsi and I am of sound mind, lawful age and in all other respects competent to make this affidavit. I have personal knowledge of the events that give rise to the making of this affidavit.
2. I have been retained by Plaintiff to serve as an expert witness in issues concerning commercial trucking and logistics.
3. All statements, opinions and conclusions in the attached report are given to a reasonable degree of certainty in the field of commercial trucking and logistics.
4. My reports are attached at Attachment 1 and 2.

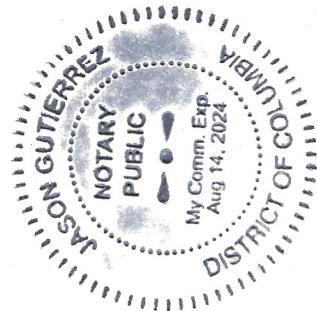
Further affiant sayeth not.

Thomas M. Corsi

Thomas M. Corsi

Sworn to before me and subscribed in my presence this 23 day of July, 2021.


NOTARY PUBLIC



ATTACHMENT 1

THOMAS M. CORSI's REPORT

Allen Miller vs. CH Robinson Worldwide, Inc.; Ronel Sigh, Rheas Trans, Inc.; and Kuwar Singh D/B/A RT Service; US District Court, District of Nevada, Case No. 3:17-cv-00408

The affiant, Thomas M. Corsi, having been duly sworn, deposes and says upon his own personal knowledge the following:

1. I am over the age of eighteen (18). I am competent and under no disability nor under the influence of any drug, alcohol or other chemical;
2. I have not been threatened or promised anything in exchange for this voluntary sworn statement. I make this statement willingly, knowing it to be the truth.
3. My Curriculum Vitae is attached to this Affidavit as "Exhibit 1."
4. My name is Thomas M. Corsi. I have been engaged by Michael Leizerman to review this case and offer my opinions in my field of expertise regarding the case called Allen Miller vs. CH Robinson Worldwide, Inc.; Ronel Sigh, Rheas Trans, Inc.; and Kuwar Singh D/B/A RT Service; US District Court, District of Nevada
5. I joined the Robert H. Smith School of Business at the University of Maryland in 1976 as a Professor of Logistics and Transportation and have served continuously on the faculty until the present time. Currently, I am the Michelle Smith Professor of Logistics; Co-Director of the Supply Chain Management Center at the Robert H. Smith School of Business; and Director of the Master of Science (MS) in Supply Chain Program. I was the Chairperson of the Logistics and Transportation Group from 1986 through 1994. During that time, my Group received recognition in the Transportation Journal as the most prolific faculty group based on published research in the logistics and transportation field. I am an associate editor of the Logistics and Transportation Review, the

Transportation Journal, and the Journal of Business Logistics. I serve on the editorial review board of the International Journal of Physical Distribution and Logistics Management. I have authored more than 100 articles on logistics and transportation and consulted for such organizations as the Interstate Commerce Commission, the Maryland State Department of Transportation, the National Science Foundation, the United States Department of Transportation, the Federal Motor Carrier Safety Administration, the National Truck Stop Operators, the United States Department of Energy, the Volpe National Transportation Systems Center, and the U.S. Army Logistics Agency. I have co-authored four books entitled: The Economic Effects of Surface Freight Deregulation, published in 1990 by the Brookings Institution in Washington, D.C., Logistics and the Extended Enterprise (Benchmarks and Best Practices for the Manufacturing Professional), published in 1999 by John Wiley & Sons in New York City; In Real Time: Managing the New Supply Chain, published by Praeger in New York City (2004); and X-treme Supply Chains: The New Science of X-treme Supply Chain Management, published by Routledge Press in New York City and London (2011). I have recently completed an article entitled: Broker/Third Party Logistics Provider and Shipper Responsibility in Motor Carrier Selection. It has been peer-reviewed and has been published in the following book: Transportation Policy and Economic Regulation: Essays in Honor of Theodore Keeler, edited by John D. Bitzan and James H. Peoples, Elsevier Press, 2018, pp. 312-328.

6. I have served as a consultant to the Department of Transportation, Federal Motor Carrier Safety Administration and its predecessor agencies in motor carrier safety since 1980. During this time, I have worked on many projects involving the evaluation and rating of

the safety performance of motor carriers, the impact of government safety regulations and inspection programs on motor carrier safety, and the relationship between carrier safety management programs and policies and motor carrier safety.

7. Specifically, I have worked with the Volpe National Transportation Center to implement the SafeStat methodology for the evaluation and monitoring of the safety performance of the nation's motor carriers. I have examined the impact of various government programs (Compliance Review, Roadside Inspections, and Traffic Enforcement) on safety by estimating the number of crashes reduced and fatalities avoided because of these programs. I have conducted extensive surveys of motor carrier managers to define the safety management practices of the nation's safest motor carriers. The areas of safety management included: driver selection, training and supervision as well as vehicle maintenance and operations. I have served on a task force to evaluate the Compliance Review for the Motor Carrier Safety Administration and have conducted national surveys of motor carrier safety management practices as well as their patterns of technology adoption. I assessed the severity/risk associated with violations involved in both roadside inspections as well as compliance reviews. I served as a consultant to the Volpe National Transportation Systems Center in the development of both the SafeStat and the CSA 2010 algorithms, now incorporated into the Safety Measurement System (SMS) to measure motor carrier safety performance.
8. I have taught courses in transportation economics throughout my career as a faculty member in the Robert H. Smith School of Business. This background of research, writing, and teaching in the fields of transportation economics and motor carrier safety facilitates my assessment of the circumstances involved in this case. Through my

background, education, and training, I am familiar with the roles that carriers, brokers, and shippers play in the movement of freight across our nation's highways he policies and procedures used by them in this industry.

9. I have also been recognized as an expert witness in the Schramm vs. Foster case. (U.S. District Court for the District of Maryland, Northern Division) (341 F. Supp. 2d 536, 2004). The Schramm case is my initial case as an expert witness in the broker/third party logistics provider and shipper liability area. I served as an expert witness and gave trial testimony in Jones v. CH Robinson Worldwide, Inc. and AKJ Enterprises. U.S. District Court for the Western District of Virginia, Roanoke Division (Civil Action. No 7:06CV00547, 2008). Since the Jones case, I have served as an expert witness in approximately forty-five cases in this area of transportation law. In each of these cases, I provided expert testimony on behalf of the plaintiffs who sought judgements against carriers, brokers/third party logistics providers, and/or shippers depending upon the case specifics. In this case, pertinent to my opinions, I have reviewed the following:

- a. Depositions and the Accompanying Exhibits
 - i. Deposition of Mr. Bruce Johnson (January 25, 2018).
 - ii. Deposition of Mr. Joshua Erickson (January 25, 2018).
 - iii. Deposition of Mr. Ronel Singh (December 17, 2017).
- b. Discovery and Other Documents
 - i. Plaintiff's Complaint (Amended).
 - ii. C.H. Robinson's Response to Plaintiff's Requests for Production of Documents, Requests for Admissions, and Interrogatories.

- iii. Rheas Trans, Inc. and RT Service Response to Plaintiff's Discovery Requests, Requests for Admissions, Requests for Production of Documents, and Interrogatories.
- iv. Rheas Trans, Company Safety Profile, Motor Carrier Management Information System, Federal Motor Carrier Safety Administration.
- v. RT Service, Company Safety Profile, Motor Carrier Management Information System, Federal Motor Carrier Safety Administration.
- vi. MCS-150 Forms, Various Years for RT Service and Rheas Trans.

c. Investigation Documents

- i. Nevada Department of Public Safety, Primary Investigating Officer, Trooper Benjamin Jenkins, Multi-disciplinary Investigation and Reconstruction Team, February 20, 2017

10. The crash occurred on December 8, 2016 in Elko County, Nevada on Interstate Route 80 at approximately 10 PM. The crash location was 12 miles east of the city of Elko Nevada. The crash involved two vehicles. Vehicle 1 was being driven by Mr. Ronel Singh. He was driving a 2004 Volvo tractor with an attached trailer. Mr. Singh had picked up a load of ramen noodles on the morning of December 8, 2016 at Pride Industries in Sacramento, California. His load of ramen noodles was bound for a Costco Depot in Salt Lake City, Utah. Mr. Singh's tractor was registered to Rheas Trans, but CH Robinson Worldwide, Inc. had brokered the load to RT Service as the motor carrier of record. Vehicle 2 was being driven by Allen Miller, a 1995 Chevy pickup truck.

11. According to the Nevada Department of Safety Investigative Report (p. 4), Interstate Route 80, an East/West road, "stretches across the northern portion of Nevada. The road

is a four lane, tow directional divided highway of asphalt/concrete construction...The posted speed limit for IR80 at mile marker 36 Elko in the area of the crash is 75 mph. The roadway was icy and snow covered at the time of the collision."

12. The Investigative Report continued on page 6 with the details of the crash and the primary contributing factor. "Vehicle 1 and its trailer were traveling eastbound on IR 80 in the #2 travel lane, at mile marker 36 in Elko County. Vehicle 2 was traveling westbound on IR 80 in the #2 travel lane, at mile marker 36 as well. Based on roadway evident Vehicle 1 appeared to be traveling too fast for the icy/snowy road conditions and its trailer began to rotate counter-clockwise. Vehicle 1 cross over the #1 travel lane, into the direct median. Vehicle 1's wheels furrowed into the dirt median causing it to overturn to its right side. Vehicle 1 continued through the direct median and slid across the westbound travel lanes. Vehicle 1 came to a rest on its right side, facing north, across both westbound travel lanes. Its trailer came to a rest on its right side, attached to Vehicle 1, facing north, across the # 2 westbound travel lane and dirt median."
13. The crash occurred as Vehicle 2 pulled his vehicle to the left to avoid a collision with Vehicle 1. However, his vehicle struck the trailer attached to Vehicle 1 toward its rear and became lodged under and into the trailer. Mr. Miller was pinned inside the vehicle and required a lengthy multi-agency extraction due to the lack of access to the driver. Mr. Miller received severe crippling injuries as a consequence of this crash. The R Report, authored by Trooper Jenkins, concluded that the actions of Mr. Singh, driving too fast for the icy/snowy road conditions, were the primary cause of the crash (page 30).
14. The Nevada Highway Patrol conducted a post-crash investigation of Mr. Singh's tractor-trailer on February 1, 2017. The report found three vehicle violations, not related to the

actual crash. One of these violations involved an out-of-service condition. In fact, the inspection found that Mr. Singh's tractor violated FMCSR 396.3(a)(1): brakes out-of-service. This violation results when the number of defective brakes found during the inspection is equal to or greater than 20 percent of the service brakes on the vehicle or combination.

15. It is my opinion that there is a "chain of causation" for this crash involving all the following: Mr. Singh (the driver of the tractor-trailer unit); RT Service/Rheas Trans. Inc. (the carrier hauling the load of ramen noodles to be delivered to a Costco facility in Salt Lake City, Utah); and CH Robinson Worldwide, Inc. (who brokered this load to RT Service/Rheas Trans. Inc.).
16. According to 49 CFR Section 14101(a), "a motor carrier shall provide safe and adequate service, equipment, and facilities." It is my opinion that each of the above parties did not meet a reasonable standard of care to ensure that this load of ramen noodles was transported in a safe and efficient manner. Had reasonable care been taken, RT Service/Rheas Trans. Inc. would have had sufficient safety management practices and procedures in place that would have resulted in Mr. Singh not being assigned to pick up the load of ramen noodles in Sacramento, California on December 8, 2016. CH Robinson Worldwide, Inc. would have examined the safety performance record and the safety management policies and practices of RT Service/Rheas Trans. Inc. and not brokered the load with the destination of a Costco facility in Salt Lake City, Utah to this carrier.
17. It is my opinion that RT Service and Rheas Trans, Inc. are, in fact, owned and managed by Mr. Ronel Singh. Mr. Ronel Singh is identified in his application for motor carrier

operating authority with the FMCSA (Federal Motor Carrier Safety Administration) as the President of Rheas Trans, Inc. While Mr. Kuwar Singh is identified in the authority application to FMCSA as the owner of RT Service (actual name Kuwar Singh d/b/a RT Service), Mr. Ronel Singh, in his deposition, admitted that Mr. Kuwar Singh, his father, has nothing to do with the business aspects of the trucking firm. He acts only in the capacity of cleaning the trucks. Mr. Ronel Singh, in fact, testified that his father does not speak English (Ronel Singh deposition, p. 27). The full responsibility for the operations of RT Service is with Mr. Ronel Singh, himself.

18. It is my opinion that Mr. Singh initiated a request for a new motor carrier number and authority in order to separate his trucking operations from the abysmal safety record compiled under the operating authority of Rheas Trans, Inc. However, the operation of RT Service by Mr. Singh has fared no better in safety management programs, policies, and record than did his operation of Rheas Trans, Inc. In fact, the safety management policies along with the actual safety record of both companies have demonstrated significant deficiencies and have resulted in an enhanced likelihood of higher crash rates than would occur if the carriers had a better safety record. The following sections will establish the connection between the two entities as well as their safety program and safety record deficiencies. Specific evidence will be shown to indicate that Mr. Singh should not have been assigned the load that resulted in the crash on December 8, 2016.
19. Rheas Trans, Inc. received its motor carrier operating authority in June of 2011. The company's application for authority (FMCSA OP-1) listed Ronel Singh as the company's President and its address as 180 Summer Stroll Circle, Sacramento, California, 95828. In April of 2012, the FMCSA conducted a New Entrant Safety Audit for Rheas Trans, Inc.

The company failed the Safety Audit due to a series of critical violations in its operations. Specifically, the inspection uncovered an instance of one of the company's drivers operating a company vehicle without a valid CDL. The inspection also found instances of two drivers who did not submit any records for their hours-of-service. Finally, the inspection noted a citation for one of the carrier's drivers involving that driver operating a company vehicle for 14 hours in violation of the FMCSA's hours-of-service regulations. Subsequent to the failed New Entrant Safety Audit, Mr. Singh submitted a correction action plan to the FMCSA. Rheas Trans, Inc. successfully exited the New Entrant Program on April 15, 2013.

20. On several occasions in 2013, the FMCSA revoked the motor carrier operating authority for Rheas Trans, Inc. due to issues associated with the company's failure to keep its insurance policies current. On both occasions (April 23, 2013 and July 15, 2013), the FMCSA restored the operating authority for Rheas Trans, Inc. as soon as it received notification that the company had the required insurance policies in place and current with necessary payments.
21. Nevertheless, throughout the period from May 2013 through January 2014, Rheas Trans, Inc. had as many as three BASIC values above the FMCSA established thresholds for these individual BASICs. For each month throughout this period, Rheas Trans, Inc. exceeded the BASIC threshold for Hours-of-Service Compliance, set by FMCSA at a value of 65. In fact, Rheas had a month score on this BASIC that reached a level of 91.9 during this period. Rheas Trans, Inc. exceeded the FMCSA established threshold of 80 in Vehicle Maintenance in December 2013 and January 2014. Rheas Trans, Inc. exceeded

the threshold value for the Crash Indicator BASIC each month between March 2013 and January 2014.

22. The Volpe National Transportation Studies Center conducted a comprehensive review of the effectiveness of the Safety Measurement System (SMS) in its ability predict future crash risk based on a carrier's scores on the BASICs. Volpe measured each carrier's scores in the BASICs at one point in time and then recorded each carrier's crash rate (Crashes per 100 power units) for a subsequent 18-month period. The study found that carriers with two or more BASICs above the FMCSA threshold had crash rates during the intervening 18-month period that were twice the rate of carriers who initially had no BASICs above the threshold levels.¹

23. Mr. Singh acknowledged that Rheas Trans. Inc. did, in fact, have three BASIC scores above the FMCSA established thresholds in the last year of the carrier's operation (2013 till January 2014) in his deposition (p. 54):

Q. Rheas trans. in its last, roughly, year of operating had regularly exceeded the safety threshold in three of the BASIC areas. Would you agree with that?

A. I think so.

24. Mr. Ronel Singh, in his deposition (page 56), testified that Rheas Trans. Inc. had its operating authority revoked on January 21, 2014. On January 8, 2014, Mr. Singh filed an OP-1 application for motor carrier operating authority with the FMCSA with his father Mr. Kuwar Singh as the owner of the company (d/b/a RT Service). As noted above, Mr. Ronel Singh's father had nothing to do with the management of the company.

¹ Volpe Transportation Studies Center, The Carrier Safety Measurement System (CSMS) Effectiveness Test by Behavior Analysis and Safety Improvement Categories (BASICs), Cambridge, MA, January 2014.

Furthermore, in its MCS-150 form filed with the FMCSA on July 2, 2014, the address listed for RT Service is 180 Summer Stroll Circle, Sacramento, California, the same address that Mr. Ronel Singh used as the business address for RHEAS Trans, Inc., substantiating the fact that RT Service was initiated by Mr. Ronel Singh to disassociate himself and his motor carrier operations from the high level of BASIC scores attached to the operating record of RHEAS Trans, Inc.

25. RT Service did successfully complete its New Entrant Safety Audit in May of 2015 and, as a consequence, exited the New Entrant Safety Assurance Program on January 11, 2016. However, throughout 2016, in the months prior to the December 8, 2016 crash, RT Service consistently exceeded the FMCSA thresholds values established for the Hours-of-Service BASIC and the Vehicle Maintenance BASIC. Mr. Singh verified these facts in his deposition (p. 67):

Q. Under RT Service, this is one year before the crash, there were two basic areas, Vehicle Maintenance and Hours-of-Service Compliance, that were over the government safety assessment threshold values...Do you see what I am talking about?

A. Yes.

Q. And you would agree that RT Service, in the year leading up to the crash had the government had assessed that there were safety assessment concerns in Hours-of-Service Compliance and Vehicle Maintenance?

A. Yes.

Q. You are aware of that as we sit here today?

A. Yes.

26. Indeed, between January 2014 and October 2016, according to the Motor Carrier Management Information System (MCMIS) Company Safety Profile, RT Service had 37 roadside vehicle inspections and 13 of them or 35.14 percent had out-of-service violations. In fact, the carrier accumulated 23 individual vehicle out-of-service violations in those 13 inspections. The overall vehicle out of service rate for vehicle inspections is 20.7 percent. Thus, RT Service had a vehicle out-of-service rate that exceeded the overall average rate by 70 percent. Furthermore, as noted above, the vehicle involved in the December 8, 2016 crash, had brake out-of-service violations that were not related to the crash itself.

27. Clearly, the safety management policies and programs as well as the safety record of both RT Service and Rheas Trans, Inc. are comparable. Mr. Singh attempted to disassociate himself from the safety record he accumulated in the operation of Rheas Trans, Inc. by setting up a separate company. However, the safety record of RT Service demonstrates a poor record of safety management policies and programs not were not addressed by the name change initiated by Mr. Singh. He continued to demonstrate that the management policies and programs of the carrier he managed were not sufficient to ensure the provision of transportation services in a safe and efficient manner. In particular, the company's safety management policies and programs were not sufficiently adequate to prevent the crash that occurred the night of December 6, 2016 and resulted in crippling injuries to Mr. Miller.

28. In my opinion, CII Robinson Worldwide, Inc. violated a reasonable standard of care in ignoring publically available and highly unsatisfactory safety performance data about Mr. Singh's trucking company (Rheas Trans, Inc./RT Service) in making its decision to select

and retain the service of Mr. Singh's company. Had CII Robinson Worldwide, Inc. exercised reasonable care in determining the safety policies, practices, and performance of Rheas Trans, Inc./RT Service, they would either have not retained the company as one of their transportation providers or would have initiated with them a specific improvement program designed to address the safety deficiencies documented and tracked their performance over time to assess whether, in fact, the improvement program impacted performance.

29. In his deposition, Mr. Bruce Johnson, CII Robinson Worldwide, Inc.'s Corporate Representative, indicated that the broker selects carriers who have an active motor carrier operating authority from the FMCSA, have active insurance policies as required by the FMCSA, and have either a Satisfactory Safety Fitness Rating or are a motor carrier with no official Safety Fitness Rating, as the carrier has never received a FMCSA Compliance Review. During his deposition, Mr. Johnson was informed that logistics providers, who elect to engage motor carriers with no Safety Fitness Rating, require that the selected motor carriers have been in operation for a period of between one and five years or have undergone a thorough safety audit. When asked if CII Robinson takes either of these steps in dealing with an unrated motor carrier, Mr. Johnson testified (p. 28):

Q. I am familiar with some logistics providers who, when it comes to an unrated motor carrier, will have additional criteria, such as they have to have been in existence for one or five years or have gone through a safety audit or something like that. So I guess the question to you is, does CII Robinson have any additional steps if there is an unrated carrier or

additional information that is requested beyond what you'd look at for a satisfactory carrier?

A. there is nothing additional that we would do, no.

Furthermore, Mr. Johnson testified that it is not the policy of CII Robinson to review any of the safety performance data on carriers. Specifically, Mr. Johnson noted that safety performance data in the Safety Measurement System is not reviewed or used in any way by CII Robinson. He said (pp. 68-69):

Q. Does CII Robinson look at the SMS or CSA website and data?

A. We do not, no.

Q. So at no point if the government had indicated through a website that a motor carrier had exceeded certain safety fitness areas was that something that CII Robinson took into account? Is that correct that CII Robinson has never taken into account the government assessment of BASIC areas or other ways in which a motor carrier would exceed federal thresholds?

A. Outside of the safety ratings or the activation of authority, no.

Q. So other than a safety rating of conditional or unsatisfactory, CII Robinson relies on the federal government to look into the motor carrier safety practices?

A. Absolutely.

30. Noted above was the fact that RT Service had a vehicle out-of-service rate, based on roadside inspection, that exceeded the national average by 70 percent. Mr. Johnson was asked about whether the company takes this information into account as they review their selection approach. He testified (p. 74):

Q. If you know, for example, a company's Vehicle Out-of-Service rate is 34.8%, over one in three vehicles inspected are taken out-of-service and ruled as illegal to be on the road—does CII Robinson even look at that?

A. No, we do not.

Q. Why not?

A. That information is being used by FMCSA to determine which motor carriers are safe to be on the highways, so we would rely on them as their sole responsibility to ensure that safety, they are the experts.

During the period leading up to the crash on December 6, 2016, the FMCSA as of December 2015 had removed the BASIC percentile scores from the public website. It is important to note that while the BASIC percentile scores were, indeed, removed from the public website, the FMCSA continues to the present to post each carrier's measure scores in each of the BASICs. The measure scores are the underlying components to be converted to percentile scores in the FMCSA methodology in order to facilitate comparisons among carriers with similar operating and size characteristics. However, FMCSA continues to convert BASIC measure scores to percentiles and continues to post alerts to carriers whose scores exceed the established threshold percentiles. There is absolutely nothing that prevents a broker or an insurance provider from requiring carriers to transmit their scores routinely as a component of the overall selection or monitoring process. Furthermore, private web-sites, like Carrier Watch and Carrier 411, continue to publish and provide to subscribers the percentile scores and alerts for all carriers. CII Robinson does subscribe to one of these services but chooses to obtain from the vendor only information about a carrier's authority status, insurance information, and safety

fitness rating. The safety performance record of Mr. Singh's company (Rheas Trans. Inc./RT Service) has been extensively documented. Had CII Robinson given consideration to this safety performance record, they would have come to the realization that they were putting their customer's goods at significant risk by continuing to engage Mr. Singh's company.

31. Perhaps a good reason for this continued use of a carrier with high BASIC scores with no reference to its safety performance record lies in an understanding of the C. II. Robinson's business model. Indeed, the company's profit is a direct consequence of selecting carriers who will agree to haul loads for C. II. Robinson for an amount that is less than what the shipper has agreed with C. II. Robinson to provide the transportation service. The C. II. Robinson's profit consists of the margin difference between its revenue from the shipper and its payment to the carrier for transportation services. Furthermore, C. II. Robinson provides a cash advance to carriers it selects, if they request this advance, and has a Quick Pay service that allows shippers to get their payment within a fixed short time period after delivery. However, both the advance and the Quick Pay reduce the amount that C. II. Robinson pays to its carriers. Clearly, finding carriers to accept loads for lower fees means financial stress for the carriers selected by CII Robinson. My own research has statistically demonstrated a relationship between carrier/financial stress and lack of profitability and poor safety outcomes. (Corsi, Thomas M. (with Rodrigo Britto and Curtis M. Grimm), "Impact of Motor Carrier Firms' Financial Performance on Safety Performance," Transportation Journal, Vol. 49, No. 4, Fall 2010, pp. 42-51).

32. In addition to reviewing the safety performance data for Mr. Singh's company (Rheas Trans. Inc./RT Service), Mr. Singh testified (p. 113) that CII Robinson asked him nothing about elements of his safety management programs and policies as part of the selection and retention process. He said:

Q. Did CII Robinson ever ask to see any Safety Manuals or Handbooks?

A. No.

Q. Did you have any Safety Manuals or Handbooks?

A. No.

Q. Did you ever interview with someone on the phone that could be them asking you about your safety policies or how you run your company or any kind of interview on the phone before you started working with Robinson?

A. I don't remember. I don't think so.

33. Finally, the carrier account manager for CII Robinson who assigned the load of ramen noodles to RT Service, Mr. Josh Erickson, did not ask the carrier anything about its ability to deliver the load with the requirements of the Hours-of-Service regulations. CII Robinson makes no calculation about the ability of the carrier to deliver the load within the regulations. It makes no inquiry about whether the load might need a driver team. Yet, when queried about this load, Mr. Singh testified that he estimated the driving time between Sacramento, California and Salt Lake City, Utah to be between 10.5 and 11 hours. Yet, the actual crash occurred at a location with snow on the road, clearly leading to a requirement for reduced speed and additional driving time. Yet, CII Robinson made

no attempt to calculate whether the load assigned to RT Service on December 6, 2016 could, in fact, be delivered safely (Erickson deposition, p. 30).

34. Overall, the crash that occurred on December 6, 2016 is a consequence of the failure of Mr. Singh to implement a set of safety management programs and policies to ensure safe motor carrier operations. The failure is well-documented through the consistently above threshold BASIC scores accumulated by Rheas Trans. Inc./RT Service. In addition, CHI Robinson failed to use reasonable care in its selection and continued use of Mr. Singh's trucking company. CHI Robinson assigned to the load to a carrier with no safety fitness rating, yet made no effort to consider any aspect of its safety performance, despite an extended period of documented safety deficiencies.

35. I used the same process and approach in this case that any other similarly trained and experienced transportation expert would use. Further, I used the same approach in analyzing this case as I use in my non-litigation work both as an educator and as a paid consultant with the United States government and within the transportation industry. My analysis is based on my experience, training, education, skills, and research of over 41 years in the transportation industry together with all the materials reviewed in this case as is customary and normal for experts in my field. My CV shows some of the relevant background in this area and is adopted by reference.

36. As a professor teaching transportation safety, I train safety directors, brokers, employees who qualify motor carriers, 3PLs, owners of shipping, broker, and freight forwarding companies, etc., as well as others in the transportation chain on the minimum safe standards in the selection of motor carriers. My teaching includes undergraduate students who are at the initial stage of their careers, MBA students who often are young

transportation professionals returning to school after many years at entry level managerial positions for additional training, and executive-level MBA students from the ranks of transportation providers, major shippers, freight brokers, 3PL providers, etc. seeking to assume top level managerial positions. I come into constant contact with transportation professionals at all career stages. I maintain my knowledge of minimum industry standards by reading industry publications, government publications, attending conferences, and talking to key players within the transportation industry, as well as my fellow professors, to stay current to teach these professionals what is necessary to do their jobs and keep the roads safe.

37. All my opinions offered above are given to a reasonable degree of certainty in my field of expertise.

Thomas M Corsi
Thomas M. Corsi

Date:

June 11, 2018

ATTACHMENT 2

Response to Report of Lane VanIngen dated July 4, 2018

Thomas M. Corsi. July 27, 2018

- **Conclusion #4:** acting in accordance with FMCSA recommendations, Robinson has chosen not to use monthly SMS scores to draw conclusions about a motor carrier's overall safety conclusion

Response: It is inaccurate to say that FMCSA recommends brokers and carriers not to use monthly SMS scores to draw conclusions about a motor carrier's safety. The wording of the FMCSA statement is that no one should draw conclusions about a motor carrier's overall safety simply from SMS data.

Mr. VanIngen's Conclusion #4 is disingenuous. He has, himself, testified that the FMCSA language does not say that you shouldn't use SMS data, it only says that you shouldn't rely on this data alone.

In his deposition (December 19, 2016) in the Riley v. AK Logistics Case (US District Court, Eastern District of Missouri), Mr. VanIngen testified as follows:

Q. And what it says, the second sentence of that explanation, is that readers should not draw conclusions about a carrier's overall safety rating simply based on the data displayed in the system; correct?

A. That is what it has said.

Q. So it doesn't say that you shouldn't use the information to make decisions about the safety of a carrier, it just says don't rely on this alone; correct?

A. That is what it says, yes

(Page 143)

- **VanIngen's Conclusion #4:** in December 2015, because of the misleading nature of SMS scores, and misuse by parties who did not fully understand the scoring system, the US Congress passed legislation mandating that the data be removed from the public FMCSA web site and from any other source of public view. Based on the findings of numerous independent and government agency studies, many shippers and brokers are now heeding FMCSA's warning about the improper and uniformed misuse of SMS scores as an indicator of motor carrier safety

Response: Mr. VanIngen's statement is factually inaccurate. The FAST Act called for the National Academy of Sciences/Transportation Research Board to convene a panel of

expert to conduct a thorough investigation of the SMS methodology and its effectiveness. There was no conclusion reached in advance about the efficacy of the SMS.

Mr. VanIngen, indeed, is inaccurate in his statement that Congress removed the BASIC percentile scores from the public website “because of the misleading nature of the SMS scores and misuse by parties who did not fully understand the scoring system.” The percentile scores were removed from the website during the time that the NAS/TRB panel conducted its investigation.

The panel reached the following conclusions about the SMS and its overall methodology in its August 2017 report. “Conceptually, SMS is structured reasonably. Using the number of violations found during inspections, and the number of crashes, with violations bundled into groups that represent related areas of safe operations, weighing these frequencies by severity and time weights, properly standardizing these counts stratifying carriers into similarly sized peer groups, and then seeing which carriers are doing worse than the others is a reasonable approach to the identification of unsafe carriers. (Report 2-29). At another point (Report 2-18): “The consensus of our Panel is that the evaluations carrier out by FMCSA supports the judgement that six of the seven BASICs are positively (sometimes very strongly) associated with future crash risk, and that the unconditional correlation of Driver Fitness’s percentile ranks with future crash frequency is insufficient to remove it from SMS.” The Panel made no recommendation about returning the SMS percentile scores to the public website.

FMCSA has placed carrier monthly measure scores on each BASIC to the public website. These measure scores were returned to the public website early in calendar year 2016 and are continuing to be available as of this date on the FMCSA Analysis and Information website. The measure scores are the underlying calculations that form the basis for assigning percentile scores to carriers once they have been assigned to groups of similar-sized carriers. The carriers within a group are arrayed from lowest to highest measure score. Within a group, carriers with the lowest measure score are given the lowest percentile score, while carriers with higher measure scores are assigned high percentile scores.

Mr. VanIngen cites four studies which he suggests are the “most comprehensive studies on the SMS system.” He suggests that all of the four studies “conclude that the use of the SMS scores is not a reliable method for determining a motor carrier’s safety fitness. The studies that endeavored to determine whether SMS scores could be used as predictors of carriers likely to be involved in crashes concluded that the scores did not accomplish this goal. There is no statistical correlation between a carrier’s SMS scores and preventable crash risk.”

First, we can observe that all of the studies cited by Mr. VanIngen predate the findings of the NAS/SMS panel, the findings of which are directly the opposite of the findings of studies cited by VanIngen. Second, Mr. VanIngen in his list of studies neglects peer reviewed studies by the Volpe National Transportation Studies Center and the University of Michigan Transportation Research Institute, both of which statistically establish a

significant relationship between high BASIC scores and greater future crash risk. Interestingly enough, it is not clear that Mr. VanIngen is at all familiar with the ATRI study (Compliance, Safety, Accountability: Analyzing the Relationship of Scores to Crash Risk, October 2012, Mr. Micah Lueck, author). Mr. Lueck concludes that both the Wells Fargo studies and the University of Maryland study by a Political Science Professor (Mr. James Gimpel) showed no correlation between the scores and crash risk because these studies used inappropriate statistical techniques. Micha Lueck concludes (pp. 6-7): Both studies used methods that assume that the dependent variable in the model (crash rate) had a standard normal distribution. However, crash rate data are not normally distributed, hence the ordinary least squares regression model (used by Gimpel and Wells Fargo) is an inappropriate method if the dependent variable is not normally distributed. Lueck says: “The strong deviation from normality discovered when checking OLS assumption suggest that several assumptions were violated by Gimpel and Wells Fargo and that the choice of analysis is therefore inappropriate for analyzing the relationship between carrier BASIC scores and crash rates. As a result, the lack of relationships observed in the scatter plot is due to user error and not necessarily because the two variables under investigation are truly unrelated. Since conclusions cannot be drawn from the simple linear regression used by the Wells Fargo, Transplace, and Maryland authors, there are several alternative approaches available.” Indeed, when Lueck, himself, applies the alternative models (negative binomial regression), he finds a clear association between high BASIC percentile scores on Unsafe Driving, Hours-of-Service Compliance, and Vehicle Maintenance and future crash risk.

Mr. VanIngen implies that an assessment of the relationship between high BASIC scores and crashes should remove from an individual carrier’s record any crashes that involves a no fault finding in favor of the carrier. Now the NAS/TRB panel directly considered the issue of not at fault crashes and their role in the assessment of a carrier’s overall crash record. They had this to say about the issue of identifying not at fault crashes in the SMS methodology. “It can be argued that non-at fault crashes do not help discriminate between unsafe and safe carriers and therefore should be removed from the SMS algorithm. The argument for the retention of such data is that based on effectiveness testing, all crashes are useful in discriminating between safe and unsafe carriers. Further, it is not always easy to determine preventability and doing so would require substantial additional resources.”

The fourth study identified by Mr. VanIngen is the GAO study effort. I would note the following about the GAO study. It suggests that the SMS methodology fails because a single carrier’s high BASIC score does not accurately predict the likelihood that the specific individual carrier is more likely to be involved in a future crash compared to a specific individual carrier with a low BASIC score. This is an inaccurate application of the SMS methodology. The approach is not designed to predict future crash risk of an individual, specific carrier. Rather the methodology demonstrates that if we take an entire group of carriers, all defined by having a high BASIC percentile score, above an established threshold, and compare the average future crash rate for that group of carriers to a group of carriers, all defined by having a low BASIC percentile score, the group of carriers with the high scores would, on average, have a significantly higher future crash

rate in comparison to the group of carriers with low scores. The GAO report criticizes the SMS on the basis of criteria that it was not meant to accomplish. The methodology is not designed to predict the future crash rate of an individual carrier.

- **Conclusion #5:** Mr. VanIngen argues that RT Service had only one BASIC score above the threshold in November 2016. He argues that one BASIC score above the threshold would not justify a decision not to use the services of a motor carrier.

Response: Mr. VanIngen neglects to mention that for seven consecutive months, between April 2016 and October 2016, RT Service had two BASIC scores (Hours-of-Service Compliance and Vehicle Maintenance) above the FMCSA established threshold. Given the position taken by CH Robinson, they did absolutely no investigation of the company's safety practices throughout this period. The fact that RT Service's BASIC score in Vehicle Maintenance just fell below the threshold in November 2016, does not negate the fact that for the seven consecutive prior months its Vehicle Maintenance score was above the threshold. The telling point is that CH Robinson completely ignored the carrier's safety performance as it did not consult its SMS data at any time throughout the period leading up to the crash.

Not only did CH Robinson ignore RT Service's SMS scores during this period, they also did not consider in any way its out-of-service record in roadside inspections. As I noted in my initial report, between January 2014 and October 2016, RT Service had 37 roadside vehicle inspections and 13 or 35.14 percent had out-of-service violations. In fact, the carrier accumulated 23 individual vehicle out-of-service violations in those 13 inspections. The overall vehicle out-of-service rate for vehicle inspections is 20.7 percent. Thus, RT Service had a vehicle out-of-service rate that exceeded the overall national average rate by 70 percent. Furthermore, the vehicle involved in the December 8, 2016 crash had brake out-of-service violations, not related to the crash. This vehicle was in an out-of-service condition at the time of the crash.

Interestingly, Mr. VanIngen in his deposition in the Riley Case, testified that data about a carrier's out-of-service rate and its vehicle violations are still available on the FMCSA website. He testified that violation, citations, and out-of-service rates are "much more reliable than the SMS scores (page 93, VanIngen deposition in Riley Case)."

Two points are interesting here. First, data, more reliable than SMS data, according to Mr. VanIngen, continued to be available to CH Robinson throughout the time prior to the December 2016 crash. Yet, CH Robinson ignored the more reliable available data and made the decision to allocate loads to RT Service without any investigation of its safety performance data. Two, it is very interesting that Mr. VanIngen testified about the reliability of violation, citation, and out-of-service rates, yet asserted that the SMS data are not reliable. In taking this line of argument, Mr. VanIngen seems to be oblivious to the fact that the basis for determining SMS measure scores and converting them to BASIC percentiles is a calculation of the number of a carrier's violations (time weighted and severity weighted) divided by the number of its inspections—the very data that Mr. VanIngen acknowledges as reliable.

- **Conclusion #5:** Mr. VanIngen asserts that FMCSA determined that RT Service had basic safety management controls in place, consistent with the certifications made on the OP-1 filed by the company when it applied for motor carrier authority, as a result of obtaining a Satisfactory score on its New Entrant Safety Audit on May 13, 2015. He asserts that once a carrier successfully exits out of the New Entrant program, it is reasonable for a broker to continue using that carrier.

Response: Mr. VanIngen is correct that RT Service received a Satisfactory New Entrant Safety Audit on May 13, 2015 and shortly thereafter graduated from the New Entrant Safety Assurance Program. The New Entrant Safety Audit provided information on RT Service's safety management programs and practices as of May 13, 2015. The crash we are discussing occurred in December 2016. The fact that RT Service passed its New Entrant Safety Audit in May 2015 does not provide any information whatsoever about its safety management programs, practices, and results in the period from May 14, 2015 up until the time of the crash. This is precisely why the FMCSA provides information to brokers and shippers regarding a carrier's safety performance so that brokers and shippers can make more informed decisions about the carrier's they use based on real-time safety performance data. CH Robinson, however, ignored the available information, recognized as reliable, about the safety performance of RT Service in the period from May 14, 2015 until the time of the crash.

Again, Mr. VanIngen's assertion that it is reasonable to continue using a carrier once it completes successful the requirements of the New Entrant Assurance program is at odds with the time gap between the time RT Service exited from the New Entrant Program and the date of the crash. As the record indicates, having emerged from the New Entrant Program, RT Service compiled a record of above-threshold percentile scores on two of its BASICs (Hours-of-Service compliance and Vehicle Maintenance). Mr. VanIngen suggestion is that it is fine for CH Robinson to consider a carrier's safety performance once it completes the requirements of the New Entrant Program. It is my opinion that once a carrier completes the requirements of the New Entrant program, brokers making a reasonable effort to select safe carriers would monitor the carrier's SMS scores or its inspection record on a continuing basis.

- **Conclusion #5:** Mr. VanIngen provides a list of reasons to suggest that it is not appropriate for a broker to obtain SMS percentile scores from carriers now that these percentile scores are not on the public Analysis and Information section of the FMCSA website.

Response: There is no dispute that the FMCSA continues to calculate BASIC percentile scores and use these scores and the threshold warnings internally. In addition, FMCSA provides the percentile BASIC scores to the carriers directly. Now, in my report, I indicated that there is nothing that prevents the broker from asking the carrier to provide its BASIC percentile scores to them on an ongoing basis. Mr. VanIngen asserts that carriers are warned not to share their PIN #'s with anyone. Quite frankly, I don't see the relevance of this comment. A carrier may share its BASIC percentile scores without

sharing its Pin #. Mr. VanIngen's comment in no way addresses the fact that carriers have the ability to share their percentile scores without divulging their PIN#. Furthermore, brokers have every right to request carriers to provide this information.

Mr. VanIngen said that I testified that the practice of brokers requesting carriers to provide their BASIC percentile scores is not a standard within the brokerage industry. I stand by that statement. It would be more time-consuming for a broker to request BASIC percentile data from each of its carriers, when the percentile BASIC score data are currently available for all carriers from third party vendors. For example, SaferWatch provides BASIC percentile data on a monthly basis with a subscription to its services. Clearly, CH Robinson could easily afford a license to obtain the BASIC percentile data for all of the carriers it currently engages as well as carriers it is vetting for possible future use with from an organization like SaferWatch.

FMCSA has published a step-by-step detailed manual describing its procedure for calculating the BASIC measure scores as well as the percentile calculations. The FMCSA continues to publish and make available to the public the measure scores. The conversion from measure scores to percentile only requires the placing of carriers into distinct groups (based on procedures described in detail in the methodology) and ranking carriers within groups from lowest measure score to highest measure score. Clearly, this straightforward exercise involves a simple grouping algorithm combined with a ranking and percentile assignment. Once again, remember that the SMS methodology depends heavily on data described by Mr. VanIngen as reliable.

- **Conclusion #5:** Mr. VanIngen asserts that a chameleon carrier situation is one in which the performance of a motor carrier has led to an adverse DOT safety rating after which relief is sought by filing for new authority for which prior affiliations are removed from consideration. Mr. VanIngen asserts that a required element of the chameleon carrier determination is that the prior carrier must have an adverse safety fitness rating. He argues that the chameleon carrier determination is not an element of this case since Rheas Trans, Inc. did not have a safety fitness rating.

Response: Mr. VanIngen is incorrect in the elements of a chameleon carrier determination. The FMCSA's risk-based algorithm to identify chameleon carriers checks the original carrier's SMS scores and the trends in those scores in addition to the carrier's safety fitness rating. My report establishes that Rheas Trans, Inc. had as many as three BASIC percentile scores above FMCSA established thresholds for an extensive time period in the months just prior to the revocation of its operating authority and the initiation by Mr. Ronel Singh of his request for a new operating authority under the name of RT Service. Interestingly, in the OP-1 application for new authority, Mr. Ronel Singh did not divulge the association with Rheas Trans, Inc. as required by the FMCSA rules and regulations. While Mr. Ronel Singh lists his father as the owner of the company, the record is clear that Mr. Ronel Singh was the sole individual responsible for the management and operation of the trucking aspect of RT Service. Mr. Kuwar Singh did not read or write English and did not manage the company.

Mr. VanIngen makes some point of the fact that my report refrains from using the term chameleon carrier. My report states: "My opinion is that Mr. Ronel Singh initiated a request for a new motor carrier number and authority in order to separate his trucking operations from the abysmal safety record compiled under the operating authority of Rheas Trans, Inc." This statement defines what it means to initiate an operating authority request as a chameleon carrier. The fact that I did not use the specific term chameleon carrier, but, in fact, defined its meaning is a distinction without a difference. I prefer using meaningful definitions in my writing as opposed to general terms that require explanation when the reader does not have intimate knowledge of the industry specifics.

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March 2018

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Undergraduate Committee, College of Business and Management, 1977-1986 (Chairperson, 1984-1986).

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Ph.D. Dissertation Committees

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Edward Morash, committee member, Currently, Faculty, School of Business, Michigan State University

Paul R. Murphy, Jr., committee member, Currently, Faculty, School of Business, John Carroll University.

Raymond D. Smith (major advisor and chairperson), 1988, Currently, Faculty, School of Business and Management, Howard University, Washington, D.C..

James A. Kling (major advisor and chairperson), 1989, Currently, Professor, School of Business and Management, Niagara University, Buffalo, NY.

Robert Trempe (major advisor and chairperson), 1991, Currently, Program Manager, ASD International.

Judith L. Jarrell (major advisor and chairperson), 1992, Currently, Federal Express Corporation.

Carol Emerson, committee member, 1995, Currently Faculty, School of Business and Management, University of Denver, Denver, Colorado.

Jane Feitler (major advisor and chairperson), 1995, Currently, Menlo Logistics Corporation.

Michael Mejza (major advisor and chairperson), 1998, Currently Faculty, School of Business and Management, University of Nevada-Las Vegas, Las Vegas, Nevada.

Michael Knemeyer (major advisor and chairperson), 2000, Currently, Faculty Member, School of Business, Ohio State University .

Elliott Rabinovich, committee member, 2001, Currently, Faculty Member, School of Business, Arizona State University

Kirk Patterson (major advisor and chairperson), 2002, Currently, Faculty Member, Air Force Institute of Technology

Matthew Morris(major advisor and chairperson), 2005, Currently, Faculty Member, University of Manitoba

David Cantor(major advisor and chairperson), 2007, Currently, Faculty Member, University of North Florida

John Macdonald (major advisor and chairperson), 2008, Currently, Faculty Member, Michigan State University

Adams Steven (major advisor and chairperson), 2013, Currently, Faculty Member, University of Massachusetts (Amherst)

GRANTS, HONORS, AWARDS, AND OTHER RECOGNITIONS

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